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Remarks

The claims have been amended to provide further clarification and to provide adequate coverage for Applicants' contribution to the art. Claim 12 has been canceled. New claims 22-23 have been added to provide adequate coverage of Applicants' contribution to the art. The amendments are clearly supported by the original disclosure, particularly at page 6, line 35 through page 7, line 11; page 7, lines 20-22; page 4, line 34; page 7, lines 12-14; page 17, lines 21-25; page 14, lines 20-26; original FIGs. 8 and 9; at page 18, lines 11-24; and at page 19, lines 12-15.

Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-5, 9-14 and 16 have been rejected under 35 U.S.C. § 102 as allegedly being unpatentable over U.S. Patent 5,704,928 to Morita, et al. (hereinafter Morita). This rejection is respectfully traversed to the extent that it may apply to the currently presented claims. Claims 6, 8, and 7-20 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent 5,704,928 to Morita, et al. (Morita). This rejection is also traversed to the extent that it may apply to the currently presented claims.

Morita describe an absorbent article having a liquid permeable topsheet, a liquid impermeable backsheet and a liquid absorbent pad for absorbing a liquid exuded from the human body positioned therebetween, and having an elasticized side flap and an extended wing along each side edge of the absorbent article. The side flap has a loop member formed from either the topsheet or the backsheet, or an optional secondary non-woven sheet, which extends from and loops back toward said side edge of said absorbent pad, and an inserted member formed from a layer which extends from said side edge of said absorbent pad. An elastic material is affixed along a portion of the length of the inserted member, and a seal affixes the inserted member inside the loop member at its base end. The wing can be a separate material or can be formed from one of the layer materials used to form the elasticized flap.

It is readily apparent that Morita teach a construction that includes an elasticized side flap along each side of the article, with each side flap including an elastic component. The structures taught by Morita require the presence of the elastic component but emphasize the incorporation of structures that avoid attachments to the loop member and avoid direct contact between the elastic component and the wearer's skin (e.g. Morita at col. 5, lines 25-32). Morita, however, do not disclose or suggest a configuration in which each of a pair of fringes is provided by doubled regions of the wrapper, each fringe has a fringe width, and each doubled region of said wrapper is

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attached together across its fringe width with construction adhesive, as called for by Applicants' currently presented claims. Neither do Morita disclose or suggest a configuration which includes a pair of fringes capable of being biased upward to form a pair of upstanding side walls when placed in an undergarment, with both of the fringes entirely void of any elastics, as called for by Applicants' currently presented claims. In addition, Morita do not teach a configuration wherein an attachment means is secured to a lower exterior surface of the wrapper, and the attachment means is configured to attach said absorbent article to a crotch portion of a primary absorbent undergarment, as called for by the claimed invention. Morita also do not disclose or suggest a configuration having an impediment layer positioned below the absorbent and between the absorbent and wrapper; wherein the impediment layer includes a liquid-impermeable film, and the film has a width that is less than a width of the absorbent, as called for by particular claims. As a result, when compared to Applicants' claimed invention, the structures taught by Morita would be more complicated and more expensive to manufacture. Additionally, the structures taught by Morita would be less able to allow the flow of liquid around the edges of the impediment layer without forcing the liquid to flow to or past the edges of the absorbent, and would be less suitable for use with a primary absorbent undergarment.

Moreover, any attachment of a doubled region of the wrapper across the width of the fringe with construction adhesive and any removal of the elastic component would be contrary to the teachings of Morita. A person of ordinary skill would not be motivated by Morita to eliminate the unattached, "loop" configuration or remove the elastic components from the side flaps. The constructions of the unattached loop member and the inserted elastic components taught by Morita are needed to provide the desired article fit and comfort. In addition, a person of ordinary skill would not be motivated by Morita to position an impediment layer between the absorbent and the wrapper, and provide the impediment layer with a narrower width that allows a flow of liquid from the absorbent to the wrapper around the edges of the impediment layer. Neither would a person of ordinary skill be motivated by Morita to locate an attachment means on an exterior surface of the wrapper. In the structures taught by Morita, such modifications would contribute to poor fit and undesired leakage. It is, therefore, readily apparent that Morita fail to teach Applicants' claimed invention, and fail to disclose or suggest the further, distinctive changes and modifications needed to synthesize the invention called for by Applicants' currently presented claims.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103 are requested.

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Claim 7 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Morita, in view of U.S. Patent 5,516,567 to Roessler et al. (hereinafter Roessler). This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

As described by Roessler, an article has first and second waistband sections, and an intermediate section which interconnects the waistband sections. The article comprises a backsheet layer, a liquid permeable topsheet layer superposed in facing relation with the backsheet layer, and an absorbent body interposed between the backsheet and topsheet layers. At least one adhesive tape member connects to the first waistband section. The tape member has a factory-bond section for connecting the tape member to the first waistband section, and a user-bond section for securing the article on a wearer. The user-bond section connects to a finger tab which includes a non-securing grasping section thereof. In particular embodiments, the grasping section can comprise a layer of absorbent material.

Roessler, however, do not cure the deficiencies of Morita. A proper combination of Morita and Roessler would still teach a construction that includes an elasticized side flap along each side of the article, with each side flap incorporating an elastic component. The structures taught by a proper combination of Morita and Roessler would still lack the configuration of the fringes called for by the claimed invention, and would still require the presence of the elastic component. A proper combination of Morita and Roessler would continue to emphasize structures that avoid attachments to the loop member, and avoid direct contact between the elastic component and the wearer's skin. A proper combination of Morita and Roessler, however, would not disclose or suggest a configuration which includes a pair of fringes having a doubled region of the wrapper that is attached together across the width of the fringe with construction adhesive, as called for by the claimed invention. Additionally, a proper combination of Morita and Roessler would still fail to teach a configuration which includes a pair of fringes capable of being biased upward to form a pair of upstanding side walls when placed in an undergarment, with both of said fringes entirely void of any elastics, as called for by Applicants' presented claims. The structures taught by a proper combination of Morita and Roessler would also still employ an impermeable layer that is wider than the absorbent. Additionally, the combination of Morita and Roessler would still not teach a configuration wherein an attachment means is secured to a lower exterior surface of the wrapper, and the attachment means is configured to attach said absorbent article to a crotch portion of a primary absorbent undergarment, as called for by the claimed invention. The constructions of the loop member and elastic components taught by Morita are required to provide the desired article fit and comfort. A proper combination of Morita and Roessler would not motivate a person of ordinary skill to add attachments to the loop structure or remove the elastic components from the side flaps.

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As a result, when compared to Applicants' claimed invention, the structures taught by a proper combination of Morita and Roessler would remain more complicated and more costly to produce. Additionally, the structures taught by Morita and Roessler would be less able to allow the flow of liquid around the edges of the impedance layer without forcing the liquid to flow to or past the edges of the absorbent, and would be less suitable for use with a primary absorbent undergarment. It is, therefore, readily apparent that a proper combination of Morita and Roessler would fail to disclose or suggest the further changes and modifications needed to synthesize the invention called for by Applicants' claims.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 is requested.

Claim 15 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Morita, in view of U.S. Patent 5,221,275 to Van Iten (hereinafter Van Iten). This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

Van Iten discloses an absorbent article having a clasp and a method of fastening the absorbent article to an adjacent garment. The absorbent article includes a first member and clasp means for holding the first member secure to an adjacent garment, such as to the crotch portion of an undergarment. The clasp means includes two relatively stiff portions joined together by a hinge which permits bending of one portion relative to the other portion. At least one of the portions has an arcuate shape along the length thereof and extends outward from the first member. The arcuate portion is designed to pivot on the hinge and forcefully press the undergarment towards the first member when the absorbent article is worn.

Van Iten, however, does not cure the deficiencies of Morita. A proper combination of Morita and Van Iten would still teach a construction that includes an elasticized side flap along each side of the article, with each side flap incorporating an elastic component. The structures taught by a proper combination of Morita and Van Iten would still lack the configuration of the fringes called for by the claimed invention, and would still require the presence of the elastic component. A proper combination of Morita and Van Iten would still emphasize structures that avoid attachments to the loop member, and avoid direct contact between the elastic component and the wearer's skin. A proper combination of Morita and Van Iten, however, would not disclose or suggest a configuration which includes a pair of fringes having a doubled region of the wrapper that is attached together across the width of the fringe with construction adhesive, as called for by the claimed invention. Additionally, a proper combination of Morita and Van Iten would still not teach a configuration which includes a pair of fringes capable of being biased upward to form a pair of upstanding side walls when placed in an undergarment, with both of said fringes entirely void of any elastics, as

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called for by Applicants' presented claims. The structures taught by a proper combination of Morita and Van Iten would also still employ an impermeable layer that is wider than the absorbent. Additionally, the combination of Morita and Van Iten would still not teach a configuration wherein an attachment means is secured to a lower exterior surface of the liquid permeable wrapper, and the attachment means is configured to attach said absorbent article to a crotch portion of a primary absorbent undergarment, as called for by the claimed invention. The constructions of the loop member and elastic components taught by Morita are required to provide the desired article fit and comfort. A proper combination of Morita and Van Iten would teach away from adding attachments to the loop structure or removing the elastic components from the side flaps. As a result, when compared to Applicants' claimed invention, the structures taught by a proper combination of Morita and Van Iten would remain more complicated and more costly to produce. Additionally, the structures taught by Morita and Van Iten would be less able to allow the flow of liquid around the edges of the impeding layer without forcing the liquid to flow to or past the edges of the absorbent, and would be less suitable for use with a primary absorbent undergarment. It is, therefore, readily apparent that a proper combination of Morita and Van Iten would fail to disclose or suggest the further changes and modifications needed to synthesize the invention called for by Applicants' claims.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 is requested.

Claim 21 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Morita, in view of U.S. Patent 5,356,403 to Faulks, et al. (hereinafter Faulks). This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

Faulks disclose an absorbent structure containing a fibrous matrix having a dual Z-directional gradient wherein the concentration of high-absorbency material decreases from a first planar surface of the fibrous matrix to the opposed second planar surface, while the density of the fibrous matrix increases from said first major planar surface to the second planar surface. Also disclosed is an absorbent article containing such an absorbent structure.

Faulks, however, do not cure the deficiencies of Morita. A proper combination of Morita and Faulks would still teach a construction that includes an elasticized side flap along each side of the article, with each side flap incorporating an elastic component. The structures taught by a proper combination of Morita and Faulks would still lack the configuration of the fringes called for by the claimed invention, and would still require the presence of the elastic component. A proper combination of Morita and Faulks would continue to emphasize structures that avoid attachments to the loop member and avoid direct contact between the elastic component and the wearer's skin.

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A proper combination of Morita and Faulks, however, would not disclose or suggest a configuration which includes a pair of fringes having a doubled region of the wrapper that is attached together across the width of the fringe with construction adhesive. Additionally, a proper combination of Morita and Faulks would also still fail to teach a configuration which includes a pair of fringes capable of being biased upward to form a pair of upstanding side walls when placed in an undergarment, with both of said fringes entirely void of any elastics, as called for by Applicants' presented claims. The structures taught by a proper combination of Morita and Faulks would also still employ an impermeable layer that is wider than the absorbent. Additionally, the combination of Morita and Faulks would still not teach a configuration wherein an attachment means is secured to a lower exterior surface of the wrapper, and the attachment means is configured to attach said absorbent article to a crotch portion of a primary absorbent undergarment, as called for by the claimed invention. The constructions of the loop member and elastic components taught by Morita are required to provide the desired article fit and comfort. A proper combination of Morita and Faulks would not motivate a person of ordinary skill to add attachments to the loop structure or remove the elastic components from the side flaps. As a result, when compared to Applicants' claimed invention, the structures taught by a proper combination of Morita and Faulks would remain more complicated and more costly to produce. Additionally, the structures taught by Morita and Faulks would be less able to allow the flow of liquid around the edges of the impedance layer without forcing the liquid to flow to or past the edges of the absorbent, and would be less suitable for use with a primary absorbent undergarment. It is, therefore, readily apparent that a proper combination of Morita and Faulks would fail to disclose or suggest the further changes and modifications needed to synthesize the invention called for by Applicants' claims.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 is requested.

The prior art of record and not relied upon has been considered pertinent to Applicants' disclosure. It is readily apparent that such art does not disclose or suggest the invention called for by Applicants' currently presented claims.

For the reasons stated above, it is respectfully submitted that all of the currently presented claims are in form for allowance. Accordingly, reconsideration and withdrawal of the rejections, and allowance of the currently presented claims are earnestly solicited.

Additionally, the Examiner's attention is drawn to the Information Disclosure Statement which was filed October 1, 2002. The Examiner is requested to make of record receipt and review of the documents listed therein.

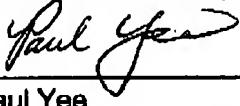
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Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-2435.

Respectfully submitted,

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CERTIFICATE OF FACSMILE TRANSMISSION

I, Judith M. Anderson, hereby certify that on August 18, 2004 this document is being facsimile transmitted to: Commissioner for Patents, Alexandria, VA 22313-1450.

By: 

Judith M. Anderson